IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 665 of 1985
With
FIRST APPEAL No. 1286 of 1985

For Approval and Signature:
HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)
Versus
BABARBHAI LAXMANBHAI RABARI & 1 - Defendant(s)

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Appearance :

F.A. N0.665 of 1985
MS MAYA DESAI for Gujarat State Road Transport Corporation,
NONE for Respondents.

F.A. N0.1286 of 1985
NONE for Appellant
NONE FOR Respondents.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 24/08/2007

ORAL JUDGMENT

1. Ms.Maya Desai, learned counsel for the appellant, none for the respondent No.1 though the name of Mr.K.F.

Dalal, learned counsel is shown in the daily cause list in First Appeal No.665 of 1985. None for the respondent No.2.

2. In First Appeal No.1286 of 1985, none appears for the appellant, Ms.Maya Desai, learned counsel for the respondent No.2. None for the respondent No.1. As none appears for the appellant in First Appeal No. 1286 of 1985, First Appeal No.1286 of 1985 is dismissed for want of prosecution.

3. The appellant – Gujarat State Road Transport Corporation being aggrieved by the judgement and award dtd.30/7/1984 passed by the Motor Accident Claim Tribunal (Main), Ahmedabad in Motor Accident Claim Petition No.88 of 1983, is before this Court with a submission that the driver of the Bus was not at all negligent.

4. Short facts necessary for disposal of the present appeal are that the claimant, a cyclist, when was cycling on the road, according to the allegations, came under the rear wheel of the bus, which was being driven rashly and negligently. The claimant made a claim in sum of Rs.2 Lacs with a submission that because of the injuries suffered in one of the leg and one of the hand, he cannot

sit, he cannot squat, he cannot stand and even for answering nature's call, he requires help and assistance of others. The Corporation and their driver appeared before the Court and submitted that the cyclist was going ahead of the bus, a rickshaw took a sudden wrong turn and dashed the claimant as a result of which, the claimant fell down and came under the rear wheel of the bus. They submitted that the driver was at all not negligent. The tribunal, after examining the entire evidence available on the records, came to the conclusion that even if the driver of the rickshaw was negligent in hitting or dashing the cyclist, the driver of the bus was required to be more cautious and careful when he was driving on a crowded road and was just to stop in a short while on the ST Bus Stand. It held that the driver of the bus was negligent to the extent of 50%, it accordingly slashed the award to 50% and directed that a sum of Rs.90,400=00 shall be paid by the driver and the present appellant.

5. After taking me though the evidence and the findings recorded by the tribunal, Ms.Desai, learned counsel for the appellant submitted that if the auto rickshaw hit the cyclist as a result of which the cyclist fell on the ground,

then, it was almost impossible for the driver of the bus to avert the accident.

6. In the opinion of this Court, the submissions cannot be accepted. The learned tribunal has given detailed reasons for holding that the driver of the bus was negligent, specially when he was driving the vehicle in a crowded area and was to stop the vehicle just at a distance of few paces. The tribunal has also found that from the statements of the driver, it would clearly appear that the cyclist was seen by the driver of the bus before he was hit by the auto rickshaw and if such was the case, the driver of the bus was required to be more careful and cautious. The findings recorded by the learned tribunal cannot be said to be unreasonable or perverse. I find no reason to interfere.
7. First Appeal No.665 of 1985 deserves to and is accordingly dismissed. Interim relief, if any, is vacated. No costs.

(R.S. GARG, J.)

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